

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGE CONLEY,

Defendant.

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No. 08-20075

**ORDER GRANTING DEFENDANT’S MOTION FOR A DETERMINATION
OF MENTAL COMPETENCY TO STAND TRIAL AND ADOPTING
IN PART REPORT & RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE AS TO DEFENDANT’S COMPETENCY**

Before the Court is Defendant George Conley’s (“Defendant”) motion for a determination of his mental competency to stand trial (D.E. #24), which the Court referred to the United States Magistrate Judge for a Report & Recommendation. The Magistrate Judge held an evidentiary hearing on the motion and recommended finding that Defendant does not currently possess the requisite mental competency to stand trial. (D.E. #44.) The Government then filed an objection to the Magistrate Judge’s Report & Recommendation. (D.E. #47.)

Although it does not expressly concede that Defendant is incompetent to stand trial, the Government does not challenge the Report & Recommendation in this respect. Rather, the Government only voices objection to the Magistrate Judge’s recommendation that Defendant be sent to another facility for further testing should the Court find that he is not currently competent. The Government argues that the Court is required to commit a defendant found to be mentally incompetent to the custody of the Attorney General for the process of treatment described in 18 U.S.C. § 4241(d). Defendant has filed no response to the Government’s objection.

After reviewing the record and considering the arguments of counsel, the Court **ADOPTS** **IN PART** the Magistrate Judge's well-reasoned Report & Recommendation. Specifically, the Court adopts the Report & Recommendation's proposed findings of fact and conclusions of law related to the determination that Defendant is at the present time incompetent to stand trial. The Court, however, finds that the Government's objection is well taken and clarifies that Defendant must be remanded to the custody of the Attorney General. Accordingly, the Court finds by a preponderance of the evidence that Defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Therefore, Defendant's motion is **GRANTED**, and the Court orders that Defendant be committed to the custody of the Attorney General and hospitalized for treatment in a suitable facility pursuant to 18 U.S.C. § 4241(d).

IT IS SO ORDERED this the 23rd day of April 2009.

s/Bernice Bouie Donald
BERNICE BOUIE DONALD
UNITED STATES DISTRICT JUDGE